HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.14744 of 2005

Dated 7th December 2006

Between:

I. Seetharamaswamy,
Eluru, West Godavari District.

……..Petitioner.

And

The Deputy Registrar of Co-operative Societies,
Eluru, West Godavari District and others.

……..Respondents.

HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.14744 of 2005

ORDER:

1. This writ petition is field seeking Certiorari to call for the records in S.C.No.6 of 2002-2003 on the file of the 1st respondent dated 12-5-2005 and quash the same as arbitrary and illegal.

2. It appears an inspection report under Section 52 of the A.P Cooperative Societies Act was submitted by the Inspecting Officer stating that the 3rd and 4th respondents committed certain irregularities in managing the affairs of the society. Therefore, the proceedings under Section 60 of the Cooperative Societies Act were initiated and notices have been issued. During the course of surcharge proceedings, the 3rd respondent filed an application under Order 1 Rule 10 of CPC for impleadment of the petitioner herein stating that it is the petitioner who has transacted the business of the society and he is responsible for the irregularities pointed out in the inspection report.

Therefore, the application filed by the 3rd respondent was allowed by the Deputy Registrar of the Cooperative Societies, Eluru by his order dated 12-5-2005. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel for the petitioner strenuously contended that neither the petitioner was a party to the inspection report under Section 52 of the Cooperative Societies Act nor anything is alleged against him or he was made responsible for any irregularities in conducting business of the society in the report submitted by the inspecting officer. Therefore, the impleadment of the petitioner to the surcharge proceedings is nothing but misconception and therefore, the impugned order is liable to be set aside.

4. The learned counsel for the respondents 1 and 2 have filed separate counters asserting that may be the petitioner is also necessary party in the proceedings under 60 of the Cooperative Societies Act for the purpose of fixing his liability. Even the learned counsel for the 3rd resonant also vehemently argued that unless and until the petitioner is made a party to the proceedings, the issue that arise for consideration cannot be resolved affectively.

Be that as it may, it is an admitted fact by all the respondents the Section 52 inspection report does not indicate anything against the petitioner. It is the contention of the 3rd respondent while filing the IA under Order 1 Rule 10 CPC that he had transacted the business of the society and he is a necessary party for being impleaded for fixing his responsibility. I am of the opinion that the impleadment of the petitioner in the surcharge proceedings initiated against the 3rd respondent does not arise unless and until the report either expressly or impliedly indicated that the petitioner has also involved in the irregularities committed by the 3rd respondent. Therefore, the order passed in I.A No. nil 2004 in S.C.No.6 of 2002-2003 dated 12-5-2005 on the file of the Deputy Registrar of Cooperative Societies, Eluru is liable to be set aside and is accordingly set aside and the IA sands dismissed.

5. However, this will not preclude the authorities form conducting any other enquiry as per law against the petitioner and proceed with the matter.

(C.V. RAMULU, J)

Dated 7th December 2006
mrb